

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

James A. Caldwell,

Plaintiff,

v.

John Moore et al.,

Defendants.

Civil Action No. 23-11156

Honorable Jonathan J.C. Grey

Magistrate Judge Kimberly G. Altman

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**ORDER ADOPTING REPORT AND  
RECOMMENDATION (ECF No. 16)**

On May 16, 2023, James A. Caldwell filed this 42 U.S.C. § 1983 prisoner civil rights suit pro se against Michigan Department of Corrections (“MDOC”) official John Moore. Caldwell claims Moore violated his Eighth Amendment rights by assaulting Caldwell while he was incarcerated. All pretrial matters were referred to United States Magistrate Judge Kimberly G. Altman under 28 U.S.C. § 636(b).

On August 4, 2023, Caldwell filed a motion for summary judgment and motion for discovery.<sup>1</sup> (ECF No. 10.) Judge Altman issued a report

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<sup>1</sup> The document was titled “Request for Relief of Judgment.” Additionally, Caldwell asked the Court for discovery relief. Judge Altman construed the document as a motion for summary judgment and motion for discovery. The Court adopts these constructions.

and recommendation to deny Caldwell's motion on September 29, 2023. As of this order, Moore has not yet been served. No objection was made to the report and recommendation.<sup>2</sup>

A party may object to any specified portion, proposed findings, or recommendation in the magistrate judge's report. 28 U.S.C. § 636(b)(1). For any specific objection, the district judge is to make a de novo determination of the issue. *Id.* The district judge may accept, reject, or modify, in whole or in part, any findings or recommendations. *Id.*

When no objection is made, the district judge may sua sponte review the report and recommendation, *Thomas v. Arn*, 474 U.S. 140, 154 (1985); however, there is no obligation to independently review the report and recommendation. *Hall v. Chapman*, 627 F. Supp. 3d 804, 806 (E.D. Mich. 2022) (citing *Thomas* 474 U.S. at 149–52). Under sua sponte review, with no objection, the district judge may use a “de novo or any other standard.” *Thomas*, 474 U.S. at 154.

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<sup>2</sup> The deadline to file an objection was fourteen days after service. The report and recommendation was served on Caldwell by U.S. Postal Service mail. Caldwell, being a prisoner, would have to mail an objection after service. The Court determines that an estimated deadline for receipt of an objection is November 13, 2023, or 45 days after the report and recommendation was mailed.

After reviewing the report and recommendation, the Court finds that it is well-reasoned and supported by the applicable law.

The Court **ADOPTS** Judge Altman's report and recommendation (ECF No. 16). The Court **DENIES** Caldwell's motion for summary judgment and motion for discovery. (ECF No. 10.)

**SO ORDERED.**

Date: January 26, 2024

s/Jonathan J.C. Grey  
Jonathan J.C. Grey  
United States District Judge

Certificate of Service

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First-Class U.S. mail addresses disclosed on the Notice of Electronic Filing on January 26, 2024.

s/ S. Osorio  
Sandra Osorio  
Case Manager